

# Should American Officials Accept Decorations and Presents From Foreign Governments?

A discussion of Article I, Section 9, Clause 8 of the Constitution of the United States:

“No person holding any office of profit or trust under the United States, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign State.”

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## GIFTS FROM ABROAD SHOULD BE DECLINED.

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### PRECEDENTS OF OTHER DAYS.

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Ex-Secretary of State, Hon. John W. Foster, is engaged in delivering a course of lectures in the school of diplomacy of the Columbian University. During last week he discussed the provision of the Constitution of the United States prohibiting Ambassadors, Ministers and other officers of the United States from receiving decorations and presents from foreign governments. The following is an extract from his lecture :

The practice exists in monarchical governments of making presents to and conferring orders and decorations upon foreign diplomatic representatives on special occasions, such as at the conclusion of treaties or the termination of their missions. The practice, a century and more ago, was carried to extravagant limits, when large sums of money, valuable presents, and distinguished orders were bestowed upon Ambassadors and Ministers.

Lord Castlereagh, English Ambassador at the Vienna congress and at Paris at the close of the Napoleonic wars, received twenty-four snuff boxes, each worth one thousand pounds sterling, besides other articles equally costly. And Count Romanzoff, the chancellor of Russia, was enabled, from the presents of this kind he received, to establish a large fund, the income of which he dedicated to soldiers' pensions. The custom grew to such evil proportions that it has been greatly diminished and modified in recent years.

The practice was recognized by our government at the beginning of its existence in a modest way, and a gold medal and chain were conferred upon foreign Ministers at the close of their mission. But when the Federal Constitution was framed a clause was inserted as follows :

“No title of nobility shall be granted by the United States ; and no person holding any office of profit or trust under them, shall, without the consent of Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.” (See Article I, Section 9, Clause 8.)

An examination of the proceedings of the convention shows that this was one of the very few provisions of the Constitution that was adopted without opposition, its eminent appropriateness for a democratic government being recognized by the fathers of the republic. Mr. Pinckney, who introduced it, said its purpose was to preserve “our foreign Ministers and other officers of the United States independent of external influence.”\* Its adoption caused the practice to be discontinued of presenting a gold medal and chain to departing foreign Ministers.

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\* Documentary History of the Constitution of the United States, Washington, Department of State, 1900, p. 600.

The first case which was brought before Congress under this provision was one of peculiar interest. Thomas Pinckney, of South Carolina, who had served with great gallantry throughout the Revolutionary war and was desperately wounded, after having been governor of his State, was appointed minister to Great Britain. From that post he was transferred to Madrid and successfully negotiated the treaty with Spain of 1795, which continued in force without change for more than a century. On his return home he was elected to the Fifth Congress. While a member of that body he addressed a letter to the speaker of the House, in which he stated that on taking leave of the court in London and on concluding the treaty with Spain he was informed that the presents usual on such occasions would be prepared for him, and that he had replied that he could not accept them without the consent of Congress, and that in due time he would apply for that consent; and he, therefore, asked for the determination of Congress.

The subject was made the special order of the day for a date five weeks later, when it was taken up and debated at great length. Those who opposed giving the consent of Congress contended that it was unrepugnant to receive presents and decorations from kings, that it might tend to corruption, and that it would require reciprocal presents by the United States to foreign ministers in Washington. The friends of the measure ridiculed the suggestion that it would establish a dangerous precedent; and claimed that as Gen. Pinckney had negotiated a useful and popular treaty, and had discharged his duties abroad with credit, he should be permitted to receive the testimonials of respect tendered him by the foreign sovereigns. The opponents admitted that no stronger case than the present one could arise for the

favorable action of Congress, as Gen. Pinckney's services to his country in the war and abroad had been of the most distinguished character, and he was then a highly esteemed member of that body ; but they claimed that a precedent should then be established that would serve to prevent all further applications in the future. It was stated in the debate that only one similar case had occurred, and that was under the Continental Congress. Although the Articles of Confederation prohibited officers from receiving such presents, permission had been granted John Paul Jones, upon the special application to Congress of the French minister, to accept a decoration from the King of France as a testimonial of his majesty's admiration for his great bravery. But it was said that the fact that the gallant commodore was dubbed a chevalier and permitted to wear a ribbon had only subjected him to the ridicule of his countrymen.

The resolution granting the permission was rejected, but a few days later at the request of the chairman of the Committee on Foreign Affairs, who had advocated the measure, a further resolution was unanimously adopted that the House was "induced to such refusal solely by motives of general policy, and not by any view personal" to General Pinckney. The chairman said that "the purity of this gentleman's character, and the importance of his services furnished a happy opportunity of establishing an invariable rule precluding the acceptance of presents, which no merit hereafter should induce the House to depart from."\*

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It is not stated what was the present tendered by the Spanish government, but it seems to have been a gold

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\*Annals of Congress, Fifth Congress, Vol. 2, pp. 1570, 1583, 1775.



snuffbox. The value of the present from the British government may be seen from the following extract from the Diary of John Quincy Adams, on taking leave of the court at the conclusion of his mission in 1817 :

“Chester (the master of ceremonies) inquired of me in what manner I should choose to receive the usual present given to foreign ministers on the termination of their missions, which, he said, was for ambassadors of the value of £1,000 and for ministers £500. I told him that by the Constitution of the United States no person in their service was permitted to accept a present from any foreign sovereign, and I must therefore decline any one that might be offered me here.”

Mr. Adams adds this comment :

“The prohibition of the Constitution of the United States in this case has my hearty approbation, and I wish it may be inflexibly adhered to hereafter. The usage itself, as practiced by all European governments, is, in my judgment, absurd and indelicate, with at least very strong tendencies to corruption. On the part of the United States there is a peculiar reason for prohibiting their servants from taking such gifts, because, as they never make presents to the ministers of foreign powers who have been accredited to them, there is not even the plea of reciprocity to allege for allowing it. For American ministers to be receiving gifts from foreign powers whose diplomatic agents in America never receive anything in return would exhibit them rather as beggars receiving alms from opulent princes than as the independent representatives of a high-minded and virtuous republic.”\*

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The action of Congress in 1798 on Gen. Pinckney's case stood for many years as a precedent against allowing officers of the United States to receive presents or decora-

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34 \*Memoirs of John Quincy Adams, 527.

tions from foreign governments. But the prohibition of the Constitution did not embrace citizens not in the public service, and the French Legion of Honor was being tendered to and accepted by private citizens until it attracted the attention of Congress. The subject was fully discussed by that body, and an amendment to the Constitution was passed by a two-thirds vote in 1809, declaring that if any citizen should accept any present or emolument of any kind whatever from a foreign king, prince, or power, such person should cease to be a citizen of the United States. On the passage of the proposed amendment, its purpose was announced to be to determine "whether or not we were to have members of the Legion of Honor in this country."

Eleven of the seventeen States ratified it, some of them by a unanimous vote, two States divided as to their senate and house, two rejected the amendment, and two States omitted to vote upon it.\* The argument of the opposition was that the existing provision of the Constitution was sufficient, and that a sweeping prohibition should not be adopted, as in certain highly meritorious cases the decoration might be worthily bestowed. Although the amendment failed because a vote in its favor of three-fourths of the States was not obtained, it was apparent that the sentiment of the country was very strongly against the acceptance of the Legion of Honor or any other foreign decoration even by a private citizen of the United States. Justice Story, in commenting upon the amendment, says the provision of the Constitution "is highly important, \* \* \* it is founded in a just jeal-

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\*Annals of Congress, Eleventh Congress, Part 1, pp. 530, 547, 549, 571, 576, 635, 671; Part 2, pp. 2006, 2050; 2 Doc. History of the Constitution. 452, etc.



ousy of foreign influence of every sort," and that the prohibition ought to be extended to private citizens the same as to officers of the government.

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No further action seems to have been taken by Congress on the subject until 1835, when the Emperor of Morocco sent to the President through the consul at Tangier two blooded horses and a lion. Congress passed a joint resolution directing that the horses be sold and the money given to the orphan asylums of the District of Columbia, and the President was authorized to present the lion to some suitable institution or individual. This led to the issuance of a circular, by order of President Jackson, to our ministers and consuls, directing them to make known to foreign governments that presents of all kinds to our officers were prohibited by the Constitution, and that they should not receive them when tendered. But this did not prevent the Imaum of Muscat from dispatching a vessel carrying a variety of presents to the President. The arrival of the vessel in New York in 1840 attracted general attention and created a long debate in Congress. John Quincy Adams occupied the floor during two days, with a speech of several hours in length, in which he contended that the presents should not be received, and gave an interesting review of the monarchical practice of decorations and present giving, which he denounced as demoralizing and which ought not to be recognized by a republican government. It was held, however, that we could not refuse them without giving offense to the "barbarian" ruler, who had on previous occasions shown great friendship to American vessels in distress, and Congress finally accepted the presents, and directed that such of

them as were not suitable to be placed in the Department of State should be sold and the proceeds deposited in the Treasury.\*

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The attitude of Congress being so strongly against the practice of receiving presents, the offer of them by foreign governments had fallen largely into disuse until recent years. The printed personal instructions of the Department of State on the subject are very explicit, as is seen from the following extract. After citing the Constitutional provision, they say :

“It not infrequently happens that diplomatic officers are tendered presents, orders, or other testimonials in acknowledgement of services rendered to foreign states or their subjects. It is thought more consonant with the character of the diplomatic representation of the United States abroad that every offer of such presents should be respectfully but decisively declined. \* \* \* Should there be reason to anticipate such an offer, informal notice, given in the proper quarter, of the prohibition against accepting a direct tender thereof would avoid the apparent ungraciousness of declining a courtesy?” †

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The more troublesome practice to control is that of the tender of decorations and orders. Notwithstanding our professions of democratic principles, there seems to be a widespread desire in our country to secure from foreign governments an order and the right to wear a ribbon, a gilt emblem or other bauble ; and Congress of late is frequently applied to for the removal of the constitutional disability in this respect in favor of a minister, officer of

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\*Congressional Globe, Twenty-Sixth Congress, First Sess., July 7-10, 1840, Vol. 8, pp. 512-519 ; 4 Statutes at Large 792 ; 5 St., 409, 730.

†Instructions to the Diplomatic Officers of the United States, 1897, p. 27.

the navy, army, or other department of the service, on whom some foreign government wishes or has been induced to confer a decoration. I have cited the opinion of John Quincy Adams, the man of widest diplomatic experience in the history of our country, as to the inconsistency and evil influence of presents and decorations on our ministers abroad. Our naval officers are those who in recent days have been most exposed to the temptation. They visit foreign ports in our men-of-war, burn powder in salutes, exchange courtesies, and open champagne. Such martial feats would hardly seem to call for any special action of either government. But we have lately read in the papers the following announcement :

“Minister Loomis has informed the Department of State that the Venezuelan government desires to confer upon Admiral —— and the commanding officers of the North Atlantic Squadron, who recently visited La Guaira, the decoration of the Order of the Bust of Boliver.”

To meet the desires of the Venezuelan government a special act of Congress would be required, but the “unspeakable” Turk seems to more perfectly grasp the situation. The recent visit of one of our naval vessels to the Bosphorus was followed by this announcement :

“The Sultan of Turkey has just decorated a young New York lawyer, —— ——, son of Capt. ——, of the navy, as a mark of his esteem for Capt. ——, who could not accept a foreign decoration without the consent of Congress, for which he did not wish to ask.”

Similar to the heroic exploits of naval officers, such as just narrated, which have commanded the gratitude of foreign rulers, is the service rendered by military and other government officials detailed to receive the guests of the nation, as in the case of the French representatives

at the dedication of the Rochambeau statue and the visits of Prince Henry of Germany and the crown prince of Siam, which have evoked the tender of ribbons of the Legion of Honor, gold cigarette cases, diamond pins, and various other evidences of sovereign appreciation.

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A writer who took the trouble to make the compilation twenty-five years ago, stated that there were then in existence no less than 143 national orders, and it is estimated that the number now exceeds 200. It is said that there are 500,000 persons entitled to wear the Legion of Honor. It has been satirically stated by diplomatic writers that sovereigns have found it much cheaper to confer on foreign officials an order and a decoration than even a service of porcelain or a piece of Gobelins tapestry, and that for this reason they are now the more freely tendered. We have been accustomed in this country to regard the insignia of the Legion of Honor as a testimonial of distinguished merit on the part of its wearer, but the democratic citizens of America who seem so eager to obtain it will be surprised to learn the estimate in which it is held by some intelligent Frenchmen. A well-known Parisian writer, M. Gobier, the editor of *L'Aurore*, in an article not long ago contributed to the *New York Independent*, has this to say of it :

“The ribbon which is the most sought after is red in color. It is called the Cross of the Legion of Honor, it is sold in the ministries at varying prices, or is given gratuitously to the sleeping partners of politicians, to the purveyors of public departments, to the brothers or husbands of the mistresses of official personages. Two generals of our glorious army—one a count and a senator, the other assistant chief of the grand staff—have been condemned to ignominious penalties for having too openly trafficked

in the Legion of Honor ; one President of the republic was even expelled because his son-in-law gave crosses as premiums to the subscribers of his newspaper. But these accidents have not paralyzed so fruitful a commerce. There is not a fine bankruptcy or a fine trial for swindling where all the accused are not ornamented with the red ribbon ; and when you are in Paris and you find yourself in a public conveyance or at the theater, at a table d'hôte, by the side of a gentleman who wears this precious ribbon, you are most urgently recommended to keep watch on your pocketbook."

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As I have intimated, the rule which was established by the Fifth Congress in the case of Gen. Pinckney, by the statesmen who framed the Constitution and set our government in motion, and which was for so many years strictly followed, has in recent times been somewhat relaxed. In the debate over the Pinckney resolution it was recognized that some cases of extraordinary merit might arise which would justify an exception to the constitutional prohibition. One of these might well be that of Dr. Andrew D. White, who, at the close of a long, distinguished, and useful public career, is just retiring to private life, and whom the press cablegrams report is being honored by the Emperor of Germany with some mark of his esteem. But it does not seem appropriate in the case of diplomats or others still in the public service, and much less of officers of the army, navy, or other departments who gratify foreign rulers and princes by the mere discharge of ordinary service. Congress should be permitted to occupy itself in more important business than in suspending a wise constitutional provision in order to enable one of its republican officials to display a royal gewgaw.







